

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Develop and
Adopt Fire-Threat Maps and Fire-Safety
Regulations.

R.15-05-006
(Filed May 7, 2015)

**OPENING COMMENTS ON THE PHASE 2 WORKSHOP REPORT BY THE CITY OF
LAGUNA BEACH**

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October 14, 2016

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Pursuant to the *Administrative Law Judge’s Ruling Extending the Schedule for the Workshop Report and Associated Filings*, dated September 23, 2016 (“Ruling”), The City of Laguna Beach (the “City”) hereby provides its comments on the *Joint Parties’ Workshop Report for Workshops Held August-September 2016*, served October 7, 2016 (“Workshop Report”).

I. COMMENTS

The City in general supports the Workshop Report but encourages the Commission to adopt a development plan for Fire Map 2 (“Work Plan”) that (1) includes the communities at risk from wildfires (CARs) variable in Shape A and preserves the public notice and input provisions as written in the Workshop Report; (2) adopts a 3-tier approach; and (3) adds a section that addresses how existing regulations will be transitioned to Fire Map 2 as well as how new regulations will be considered and adopted.

A. The Provisions of the Work Plan Concerning the Inclusion of CARs in Shape A, Public Notice, and Input Provisions Should Remain as Written Despite the Governor’s Veto of SB 1463

Participation in the R.15-05-006 proceeding is time-consuming and expensive. As a result, investor owned utilities (“IOUs”), funded by ratepayer dollars, and community infrastructure providers (“CIPs”), backed by large profit margins, are able to participate while other stakeholders are pushed out by cost. This is evidenced by the fact, that despite the significant impact Fire Map 2 will have on public safety within local communities, the City was the only municipality to partake in workshops for Fire Map 2.

SB 1463 intended to address this unbalanced representation by requiring the Commission to demonstrate how Fire Map 2 incorporated local government concerns. While unanimously passed by both houses, the Governor nonetheless did not sign SB 1463 into law. Nevertheless, the Commission still has an obligation to address the concerns of local stakeholders regarding wildfires caused by overhead utility equipment. The Commission should therefore ensure that Fire Map 2 captures and appropriately classifies communities at risk from wildfires (“CARs”), incorporates valuable local knowledge, and otherwise addresses ratepayers concerns.

Fire Map 1 used a limited set of criteria to depict fire hazard but otherwise failed to capture fire consequence. As a result, Fire Map 1 artificially eliminated developed communities from high wildfire risk categories. For example, the City was depicted on Fire Map 1 within a low fire-hazard area when, in fact, fire history and mapping by the California Department of Forestry and Fire Protection show that the City faces a very-high fire risk.¹ In the Decision Adopting Fire Map 1 the Commission acknowledged this limitation stating, “We acknowledge the City’s position that Fire Map 1 incorrectly assigns a low Utility Fire Threat Index rating to the City of Laguna Beach. We will consider this matter further during the development of Fire Map 2.”²

Participants in the Fire Map 2 workshops discussed, at length, the fact that Fire Map 1 failed to capture fire consequence and therefore inappropriately categorized a number of communities at risk from wildfires as low fire-hazard areas. To remedy this issue, parties agreed that Fire Map 2 should include a variable that would capture and reclassify communities that

¹ See *The City of Laguna Beach Opening Comment On (1) Map Review & Development Report And (2) Fire Map 1 Workshop Report*, filed March 10, 2016 (“Laguna Beach Opening Comments”), pp. 1-3; See also the California Department of Forestry and Fire Protection’s Fire Hazard Severity Zones map, which designates ninety percent (90%) of the City in a very high fire hazard severity zone (Laguna Beach Opening Comments, Exhibit A).

² D.16-05-036, *Order Instituting Rulemaking to Develop and Adopt Fire-Threat Maps and Fire-Safety Regulations*, dated May 26, 2016, p. 23.

were inappropriately categorized on Fire Map 1. The CARs variable, one of the five elements that comprise Shape A, achieves this. The Commission should adopt the development of Shape A as currently written in the Workshop Report in order to ensure that Fire Map 2 correctly designates the City, and other communities at risk of wildfires, as a high fire-hazard area on Fire Map 2.

In addition, the Commission should preserve those portions of the Workshop Report that address public notice and comment during the development of Fire Map 2. Local governments and fire departments have knowledge of fire-hazards and conditions that might otherwise be unaccounted for on Fire Map 2. Collecting and incorporating this input allows the Commission to develop the most informed and accurate Fire Map 2. Further, it creates an opportunity for local stakeholders to address their concerns regarding fires caused by overhead utility facilities in a proceeding that is otherwise too scientifically-technical and costly for public participation.

Altogether, those provisions of the Workshop Report that were drafted in light of SB 1463 still advance the Commission's core responsibility to reach out to affected communities and improve public safety and should therefore be adopted in the final Work Plan for Fire Map 2 as written.

B. The Workplan Should Include a 3-Tier Approach

A 3-tier approach to Fire Map 2 was foundational to the methodology described in the Scoping Memo and was accepted by nearly all parties throughout workshop discussions. The Workshop Report states that this as a non-consensus item when, in fact, AT&T is the only party that takes issue with this classification. AT&T argues that a 3-tier approach will fail to capture substantive differences between some areas and will consequently constrain the Commission's and utilities' ability to tailor regulations pursuant to wildfire risk within large areas. AT&T would like to leave open the number of tiers applicable to Fire Map 2 until a later stage of the proceeding in order to examine whether a 4, 5, or 6-tier system is preferable.

AT&T's opinion overcomplicates this matter and opens a door to considerable

delay in the development and adoption of Fire Map 2 if the number of tiers continues to be discussed when the majority of parties stand firm on this issue. The AT&T position also would make the adoption of regulations for a map with six tiers nearly impossible and would certainly be a basis of confusion and misinterpretation by utility and public alike. The City strongly supports a 3-tier system and encourages the Commission to adopt this approach.

C. The Workplan Should Include a Section that Addresses How the Commission Will Review and Adopt New and Modified Regulations

The Report fails to address item vii in Appendix B of the Assigned Commissioner's Scoping Memo and Ruling: Transitioning existing regulations that rely on interim fire-threat maps to Fire Map 2. The Commission must therefore add a section to the Work Plan that satisfies this requirement. In doing so, the City reminds the Commission that the purpose of R.15-05-006 is (1) to develop and adopt fire-threat maps, and (2) consider the need for new fire-safety regulations based on the adopted maps. Therefore, when adding a section that addresses how existing regulations will be transitioned to Fire Map 2, the Commission should simultaneously establish the forum in which the second objective of the R.15-05-006 will be expeditiously achieved.

The City offers an additional section for the Work Plan, attached herein as Attachment A, to remedy this hole in the Report and further the R.15-05-006 proceeding. The City encourages the Commission to adopt this section because discussion of existing regulations, new regulations, and how either of these may be incorporated into Fire Map 2 will be a contentious and time consuming process for all stakeholders. It is also the most important step towards improving public safety. Consequently, this work needs to begin immediately and should not wait until Fire Map 2 is finalized and adopted in what will be a year or more time.

II. CONCLUSION

For the reasons stated above, the City encourages the Commission to adopt a Work Plan for Fire Map 2 that (1) includes the CARs variable in Shape A and preserves the public notice and input provisions as written in the Workshop Report; (2) adopts a 3-tier

approach; and (3) adds a section that addresses how existing regulations will be transitioned to Fire Map 2 as well as how new regulations will be considered and adopted.

October 14, 2016

Respectfully submitted,

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ATTACHMENT A

Fire-Safety Regulations Associated with Fire Map 2

The purpose of Rulemaking R.15-05-006 is (1) to develop and adopt fire-threat maps, and (2) consider the need for new fire-safety regulations based on the adopted maps. The purpose of new fire-safety regulations is to safeguard the people and protect the property and resources of California.

Appendix B of the Assigned Commissioner's Scoping Memo and Ruling states - the Fire Map 2 Work Plan shall address "transitioning existing regulations that rely on the interim fire-threat maps to Fire Map 2" in addition to "any other matters the parties deem appropriate, provided that such matters are within the scope of the Fire Map 2 Work Plan."

The following outlines a process parties may follow in order to review existing regulations, and propose new or modified regulations, that rely on Fire Map 2:

1. Any party to the proceeding may propose a new or modified regulation by preparing a Proposed Rule Change (PRC).
 - a. A PRC will contain the following:
 - i. General Order number;
 - ii. Rule number;
 - iii. Title of the rule;
 - iv. Text of the rule; and
 - v. Supporting statement.
2. When drafting a PRC, parties are to keep in mind that the purpose of new fire-safety regulations is to safeguard the people and protect the property and resources of California. Accordingly, concern for public safety is the driving principal behind any PRC.
3. At the outset, the Subject Matter Expert (SME) Panel will review Appendix A of the Assigned Commissioner's Scoping Memo and recommend an initial set of PRCs.
4. Next, the Fire Safety Technical Panel (FSTP) will hold publically noticed workshops to discuss the PRCs put forth by the SME Panel as well as any other PRCs drafted by parties. After some discussion (i.e. 2-3 day workshop), a straw

vote will be taken to distinguish PRCs that have consensus from those that are contested.

5. PRCs with consensus will be submitted to the assigned ALJ for review. The ALJ may return the PRC for further discussion or put it before the Commission for adoption.
6. PRCs that are contested will be slated for further discussion (i.e. 2-3 day workshop). The purpose of these discussions is to help parties understand diverging viewpoints and identify areas where further technical expertise/advice may be needed.
7. If the FSTP is unable to reach consensus on a PRC, parties will submit alternative proposals (if any) and comments (within 30 days of the final workshop) to the ALJ, who will prepare a Proposed Decision for Commission consideration.

The goal is for all PRCs to be adopted or dismissed by the start of the 2017 Fire Season (October 2017).